

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

MERWYN LEVERING,

Defendant.

CASE NO. 8:04CR178

MEMORANDUM AND ORDER

This matter is before the Court on the Defendant's Motion for Extension of Time (Filing No. 142) in which the Defendant requests the Court to extend his deadline to file a notice of appeal to August 19, 2016. Also before the Court is a Motion to Withdraw as Attorney (Filing No. 143) in which the court-appointed attorney and the Office of the Federal Public Defender request that they be allowed to withdraw, per the request of the Defendant, who wishes to proceed pro se.

On July 19, 2016, the Court entered an Amended Judgment and sentenced the Defendant to imprisonment for a term of two hundred forty (240) months on Count I and one hundred twenty (120) months on Count II, with the terms running concurrent; and five (5) years supervised release with special conditions on Count I and three (3) years supervised release with special conditions on Count II, to run concurrent. On July 27, 2016, the Defendant filed his motion to extend the filing of his notice of appeal for that sentence.

Federal Appellate Rule of Procedure 4(b)(1)(A)(i) provides that, under the circumstances presented in this case, a criminal defendant's notice of appeal must be filed within 14 days of the entry of the judgment or order being appealed. Federal Appellate Rule of Procedure 4(b)(4) provides that the 14-day period may be extended by 30 days

upon a finding of excusable neglect or good cause. The Court finds that there is good cause and will grant an extension. While ordinarily it is advisable for counsel to ensure that any requested notice of appeal is filed before counsel withdraws from the case, the Court recognizes that the Defendant's desire to proceed pro se is "adamant," as described by counsel in the Motion to Withdraw, and the Court will grant that motion as well.

IT IS ORDERED:

1. The Defendant's Motion for Extend Time to File a Notice of Appeal (Filing No. 142) is granted;
2. The Defendant will have until August 19, 2016, to file any notice of appeal;
3. The Motion to Withdraw as Attorney (Filing No. 143) is granted; and
4. The Clerk is directed to mail a copy of this order to the Defendant at his last known address.

DATED this 1st day of August, 2016.

BY THE COURT:

s/Laurie Smith Camp
Chief United States District Judge